ORIGINAL FILE

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August 24, 1992

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Stop Code 1170
Washington, D.C. 20554

Re: Westinghouse Broadcasting Company, Inc.'s Comments in MM Docket No. 91-221

Dear Ms. Searcy:

Enclosed for filing with the Commission is an original and nine (9) copies of Westinghouse Broadcasting Company, Inc.'s Comments regarding Review of the Commission's Regulations Governing Television Broadcasting, MM Docket No. 91-221.

Should there by any questions in conenction with these Comments, please feel free to contact the undersigned.

Respectfully submitted,

SA Hildebrandt

Stephen A. Hildebrandt
Chief Counsel

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter Of:	)	
	)	
Review of the Commission's Regulations Governing Television Broadcasting	)	**MM Docket No. 91-221**
	)	
	)	

To: The Commission

COMMENTS OF WESTINGHOUSE BROADCASTING COMPANY, INC.

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August 24, 1992

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SUMMARY

1. THE DUOPOLY RULE SHOULD BE MODIFIED TO ALLOW UHF/VHF COMBINATIONS IN ALL MARKETS.

- **The broadcasting industry is in decline and urgently needs new opportunities to compete in the exploding media marketplace.**
- **One second channel acquisition by individual broadcasters would bolster the survival of over-the-air television broadcasting and guarantee the continued free availability to the public of high quality news, information and entertainment programming.**
- **Since individual broadcasters compete in a large, diverse multi-channel environment, there is no potential for excessive concentration of power or loss of diversity through a second channel acquisition.**

The television broadcasting industry in this country is declining due to the explosion of the mass media marketplace in which broadcasters compete. As broadcast viewer and advertiser bases are undercut by new competition, the amount and quality of news, information, public affairs, and entertainment programming which broadcasters provide free to the public is seriously threatened. The public needs strong competitive broadcasters to provide these services. The Commission has an opportunity in this Rulemaking to free broadcasters from regulatory restraints which prevent them from competing vigorously in today's multi-channel marketplace.

Any individual broadcaster is just one voice in a local marketplace which includes fifty plus video channels. In such a marketplace, ownership of a mere two channels offers no potential for abuse of power, excessive concentration, or adverse effect on overall diversity of programming. Even consolidation of several broadcast stations per market would have minimal impact on diversity and concentration

Second station ownership would have a substantial positive effect on a broadcaster's financial strength due to the benefits of operational economies and increased distribution opportunities. Without this positive impact, it is inevitable that broadcast stations will continue to decline in the competitive marketplace and provide less service to the public. Free over-the-air television will become a second class service compared to pay channels and the loser will be those millions of Americans who rely on free television for their news, information and entertainment. Therefore, the Commission should move expeditiously to modify its duopoly rule to allow UHF/VHF combinations for all broadcasters in all markets.

2. THE RADIO-TELEVISION CROSS-OWNERSHIP RULE SHOULD BE REPEALED.

* **The explosion of diverse programming voices in today's mass media marketplace makes the radio-television cross-ownership rule unnecessary.**

* **Radio-television joint owners are needed to realize the vision of the Commission's radio ownership deregulation.**

* **The Commission's reduced local radio ownership caps , and the modest caps proposed herein for television, are sufficient to ensure a competitive and diverse role for radio and television in the overall media market.**

The prohibition on ownership of both television and radio stations in a market was adopted years ago amid concerns about concentration and diversity in a limited broadcast marketplace. Today that marketplace has grown dramatically. Many markets have over 50 radio signals and more than 50 video channels. This explosion in audio and visual services makes it impossible for any one player to dominate a market.

This same marketplace expansion has severely diminished the competitive position and financial base of the market's broadcast radio and television components. Some consolidation of broadcast resources is absolutely necessary to achieve operational economies sufficient to keep broadcasters competitive with cable and other media. Many of broadcasting's strongest, public interest-committed companies own both radio and television stations. These broadcasters are needed to realize the vision of the Commission's recent radio ownership changes and those television ownership changes contemplated in this proceeding. To freeze joint owners out from growth in one medium or the other makes no sense and would ultimately hurt service to the public.

In radio, the Commission has moved moderately to limit local ownership to 2 AM and 2 FM stations. In television, current proposals would require a 2 station limit, one of which must be UHF. These ownership caps, standing alone, are sufficient to protect against undue concentration and ensure continued diversity. Therefore, the current Radio-Television Cross-Ownership Rule is unnecessary and radio-television owners should be freed to purchase stations up to the new carefully set ownership caps.

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Washington, DC

In the Matter Of	)	
	)	
Review of the Commission's Regulations Governing Television Broadcasting	)))	MM Docket No. 91-221

COMMENTS OF
WESTINGHOUSE BROADCASTING COMPANY, INC.

Westinghouse Broadcasting Company, Inc., ("Group W"), hereby submits its comments in the above-captioned Notice Of Proposed Rulemaking ("Notice") in Docket No. 91-221, reviewing the Commission's Regulations Governing Television Broadcasting. Group W is the licensee of five (5) major market television stations [1] and has participated in this proceeding in its earlier stages. [2] Group W welcomes this Commission review and strongly endorses the necessity of restructuring Commission ownership rules to allow free over-the-air broadcast television stations to be competitive in today's media marketplace.

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1 KYW-TV, Philadelphia, Pennsylvania; KPIX, San Francisco, California; WBZ-TV, Boston, Massachusetts; KDKA-TV, Pittsburgh, Pennsylvania; and WJZ-TV, Baltimore, Maryland.

2 See Comments of Westinghouse Broadcasting Company, Inc. in Docket No. 91-221, filed on November 21, 1991.

Marketplace Findings

Any rule change which the Commission ultimately adopts must be based on the dramatic marketplace evolution documented in this proceeding. The key findings detailed in the Notice are:

1. New competition to broadcast services has resulted in a plethora of new services and choices for video consumers. [3]
2. These competitive forces affect the ability of over-the-air television to contribute to a diverse and competitive video programming marketplace. [4]
3. As a greater number and variety of programming choices have emerged, viewers have begun to migrate from traditional broadcast services to other program sources and advertising revenues for broadcast television stations and networks have declined. [5]
4. Structural ownership rule changes will strengthen the potential of over-the-air television broadcasters to meet this competition and serve the public. [6]

In sum, the Commission found an extraordinary explosion in the video marketplace since the adoption of its multiple ownership rules in 1964. Local markets have grown from a handful of television channels to scores of programming choices for the video consumer. For example, representative cable systems in the top 10 television markets average 75 video channels. Of these channels, only 16, on average, are broadcast outlets, with about 5 being VHF stations, 11 UHF, and 3 or 4 non-commercial. [7] Even if all these broadcasters merged into two station combinations, a highly unlikely event, the average ownership universe would only be reduced by eight. A more likely scenario would be that two or three mergers would take place, causing

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[3] Notice at Paragraph 1.
[4] Notice at Paragraph 1.
[5] Notice at Paragraphs 4 and 5.
[6] Notice at Footnote 4.
[7] Television and Cable Factbook, Vol. 60 (1992).

a minimal change in a 75 channel video marketplace. Furthermore, the video environment continues to grow explosively as new technology provides for channel capacity expansion. Therefore, the marketplace of the future may be better represented by the 150 channel Time Warner cable system currently operating in Queens, New York. This doubling of current capacity will further lessen any impact of two station broadcaster operations on the Commission's traditional concerns of diversity and concentration.

Therefore, the Commission should free over-the-air broadcasters, the one segment of the market which is burdened by ownership restrictions, from outmoded rules which prevent broadcasters from competing effectively. Without significant change, free broadcasting will slowly erode to second-class status providing second-class service to the public. Such a result would be inconsistent with the Commission's mandate to promote the nationwide availability of free television service.

I. THE DUOPOLY RULE SHOULD BE MODIFIED TO ALLOW UHF/VHF COMBINATIONS IN ALL MARKETS.

The Commission should restructure its ownership rules to allow broadcasters to acquire additional over-the-air distribution outlets. In today's multi-channel environment, broadcasters must also become multi-channel operators in order to survive. Therefore, it is essential that the Commission change its duopoly rules to allow a local television broadcaster to purchase at least one other television station in its market. This will strengthen local over-the-air broadcasters by giving them both increased distribution and significant operating efficiencies as noted below.

Group W believes the rule should be changed to allow any local broadcaster, VHF or UHF, to acquire a second station in its market. An existing VHF broadcaster could purchase a UHF station and an existing UHF broadcaster could buy a VHF or another UHF station. There should be no other restrictions attached to the rule. For example, it should not be limited to UHF/UHF combinations. Such a limitation would prevent those very stations with the strength to preserve and improve the service of weaker UHF stations from participating in this regulatory solution. Excluding broadcasting's strong VHF players, with their long commitment to public service programming, from new multi-channel opportunities would undercut the purpose of any deregulatory move before it even begins.

In particular, there is no need for a regulatory minimum for surviving independently owned broadcast stations, such as the six independent station minimum noted by the Commission as a possible cap. Such a requirement would prevent the benefits of consolidation in many markets and limit those benefits to isolated stations in other markets. If free over-the-air broadcasting is to be truly strengthened, all broadcasters should have the opportunity to respond to the competitive challenge of cable and other media by acquiring a second channel in their markets. Limiting the number of players who can take advantage of the rule change would severely undercut its possibility for success at the very outset.

The relevant universe for evaluating the need for independent voices must be the entire video marketplace, including, at a minimum, the 30 plus cable channels available today to the majority of Americans, and the 100 plus channels promised in the near future. These channels are competitors to broadcasters and must be counted in evaluating diversity. The goal of this proceeding is to strengthen broadcasters against this competition. To limit broadcast consolidation based on an arbitrary cap measuring the broadcast segment of the overall marketplace alone, would severely undercut the effectiveness of the rule change in strengthening broadcast competition to cable. Foreclosing the possibility for the creation of multi-channel broadcasters to compete with cable just because fewer broadcast channels were allocated to a particular market makes no sense. If broadcasters need this ownership rule relaxation -- and they surely do --, they need it in every market, not just a selective few with a multiplicity of signals. The Commission should simply relax the rule and allow the marketplace in each location to determine what consolidation is necessary to meet the competitive challenge.

Critics argue that any relaxation of the duopoly rule creates the danger of concentration and harms diversity. Therefore, the Commission can legitimately ask:

1. How will a rule change work to strengthen broadcast television as a competitor in today's video marketplace? And,
2. How will the Commission's public interest goals of (a) diversity, (b) localism, (c) national availability of service, and (d) broadcasting in the public interest, be affected?

Group W believes there are compelling and straightforward answers to these questions which support deregulation.

1. How Will A Rule Change Work To Strengthen Broadcast Television As A Competitor In Today's Video Marketplace?

Allowing local broadcasters to become multi-channel television operators would benefit over-the-air broadcasting in two distinct ways: (a) operational economies, and (b) increased distribution opportunities.

a. Operational Economies

There is no question that multiple local stations can be operated more efficiently than a single station. Significant cost savings would emerge from fewer management personnel and combined financial, engineering, programming, sales and news operations. News and programming could be customized to meet different local needs, while other programming of general interest could be shared in a mutually advantageous manner. Joint sales forces would offer more variety to advertisers, and increase the stations' ability to compete with cable in the local marketplace. Local cable operators have a variety of channels and programs to sell to their local advertisers. Broadcasters with multiple outlets would be able to compete in a similar manner, offering multiple channels and multiple programs carried thereon. Station overhead would be dramatically reduced. Overall, cost savings would be substantial and would invigorate these stations in their strenuous competition with local and national cable channels. The Commission has repeatedly recognized the benefits of such operational efficiencies.[8] In sum, Group W strongly agrees with the Commission's conclusion in the Notice that regional groups of stations under common ownership could compete more effectively by offering a wider audience to advertisers and sharing joint common costs.[9]

An added benefit of second station ownership would be the possibility of saving a failing station in the market. Many independent stations have

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[8] See Notice at Paragraph 17 and Revision Of Radio Rules and Policies, Report and Order in Docket No. 91-140 (1992), at Paragraph 26-28.

[9] Notice at Paragraph 7.

been unprofitable in recent years or are projected to become unprofitable.[10] Some of these stations have gone off the air and others may be following shortly. It may not be possible to operate the stations independently in today's changed media environment. Group W believes that such stations could be operated successfully and provide significant free over-the-air service to a local audience if operated jointly with a stronger station in their markets. Therefore, an existing local station owner may be the only potential buyer for such a station and the only way to keep multiple over-the-air outlets available in these markets.

b. Increased Distribution Opportunities

Multi-channel distribution opportunities will enhance the ability of local television stations to both produce and purchase quality programming in the future. In fact, it is the only way for broadcast stations to ultimately compete with cable's multi-channel program providers. The strength of local broadcast stations has always been local programming. As revenues have decreased, the ability of these stations to produce their own local programming has been undercut. Simply put, local production is expensive. If it is to continue at current levels, broadcasters desperately need the ability to spread the costs of such programming over multiple distribution outlets. Here are a few examples:

> 1. **Local News.** Instead of cutting back on local news in order to save costs, a multiple station broadcaster could spread the costs of the current news operation over additional multiple newscasts, each with separate audiences and revenue-producing capabilities. For example, a network affiliate owner could schedule additional newscasts on a second station at 10 PM or during the 7-9 PM prime time period.

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10 See "Broadcast Television In A Multi-Channel Marketplace", FCC Office of Plans and Policy Working Paper, June 1991.

These are time periods currently impossible to schedule for such programming due to other network programming commitments. The net result would be substantially more news available to market audiences instead of creeping cutbacks in news at individually-owned stations.

2. **Locally-produced public affairs programming.** Local public affairs is another genre of programming that is at risk of slowly dying due to the need to cut costs. The local broadcaster could showcase such programming on a second outlet in his market, support these programs and their production staff with revenues from high viewership programs on its other stations, and have the added benefit of airing public affairs programming in more attractive time periods on the second station.

3. **Syndicated programming.** Popular high-quality syndicated programming would flourish in a multi-channel operator environment. Today's syndicated marketplace is flooded with inexpensive, lower quality programming because that is all the local stations can afford. The combined resources of multiple stations will attract higher quality, more expensive programming in a local marketplace. Spreading the cost of such programs over multiple stations in the market would enhance the ability of the local broadcaster to acquire the program for free television, rather than lose it to cable. The net result for the viewer would be more programs, better programs, and more time diversity for the viewing of such programs.

4. **Sports.** Sports is another category of programming which would flourish on free television under these circumstances. All too often, stronger network affiliates are unable to bid for a substantial number of sports games because of the network schedules. The result is that free broadcasting is often represented by weak UHF independents in its bids for sports rights in competition with strong regional or national sports networks.[11] Recently, the Philadelphia 76ers basketball club struck a deal which will cause their games to all but disappear from over-the-air broadcasting in the Philadelphia area. Group W believes that the broadcasting of local sports franchises provides a public service to its viewers and has successfully negotiated baseball contracts in Pittsburgh and San Francisco. However, as network affiliates, Group W's carriage of such games is limited. With another station in the market, Group W could put its considerable resources behind a bid for a variety of baseball, basketball, hockey, and other sports rights and secure these games for the free television audience.

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11 Currently, 31 regional sports channels with 39.1 million subscribers compete with over-the-air television from local sports rights. OPP Working Paper, supra, page 78.

In sum, local news, public affairs, sports, and popular syndicated programming will be preserved for free over-the-air television if local broadcasters can become multi-channel operators. The tremendous investment in these programs can only be supported in today's video environment by spreading the cost of this product over multiple distribution outlets.

2. How Will the Commission's Public Interest Goals of (a) Diversity, (b) Localism, (c) National Availability of Service, and (d) Broadcasting in the Public Interest, Be Affected?

(a) Diversity

In evaluating whether diversity is served by a change in current ownership restrictions, the Commission must look at the total media environment in which broadcasters compete. As the Commission has found, this marketplace has experienced "an enormous expansion in the number of video outlets available to most viewers" and "cable television has grown explosively as a competing force." [12] Approximately 90% of television households are passed by cable and approximately 60% subscribe to cable.[13] With cable channels included, most households receive more than 30 channels. Many cable subscribers receive far more channels, choosing from over 100 cable networks. [14] As noted previously, the top 10 markets average 75 channels and broadcast consolidation would affect a maximum of eight channels. Other multi-channel video providers, such as home satellite dish systems and MMDS, as well as home video cassette recorders, also provide alternative sources of video programming.

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12 Notice at Paragraph 3.

13 OPP Report at 4044

14 OPP Report at 4049.

The contribution to diversity from a single broadcaster must be judged in the context of this enormously expanded video environment. The conclusion is clear: an individual broadcast station is just one of fifty plus home video choices available to the American consumer. This is in contrast to an average of only six signal choices at the time the duopoly rules were adopted. **Diversity is a fact of life in today's multi-channel marketplace. The Commission need no longer rely on its ownership rules to guarantee diversity. In fact, without the strength of multi-channel operation, today's broadcasters will become second-class programmers and overall diversity will be diluted.**

Depending on diversity of ownership alone to maintain diversity of programming is impossible in today's difficult competitive environment. Stations which are consistently weak financially simply cannot afford the quality programming to maintain true diversity. On the other hand, a committed local broadcaster with strong financial resources can bring more diverse programming into the marketplace by owning and operating multiple stations. Old re-runs and movies would be replaced by news, sports, and information, or other high-quality syndicated programming. Combined stations would have the increased financial ability to compete with cable to acquire a variety of quality programs. Furthermore, greater resources and efficiencies would allow diverse local production to remain viable in the market and find a home on a second station. Whether one looks to the overall marketplace to guarantee diversity or the ability of strong multi-channel operators to program diversely, one thing is clear: ownership restrictions to protect diversity are outmoded, unnecessary, and counterproductive.

b. Localism

Net local programming would increase as stronger stations have the resources to produce more programming and have the time periods in which to place such programming. Local sports would be more likely to stay on free television, as stronger locally-operated stations can bid effectively against regional sports networks and local cable sports channels. Existing local news and programming resources would be preserved and used efficiently to provide new programming to fill the available hours on multiple stations. Local program quality would be maintained and increased as stations' return on programming resources increases.

c. Nationwide Availability of Service

Multiple ownership would clearly strengthen the weaker local free television outlets and in many cases preserve them from failure. Free television would be given the multi-channel opportunity to compete with cable for audience and advertising revenues. New revenue sources for all stations involved would allow better competition for quality programming and talent, much of which is now moving to the cable industry.

d. Broadcasting in the Public Interest

Ownership of a second station would create a new outlet for local news, information, and public affairs programming by stations with the financial resources to produce such programming. The record is clear that many financially-strapped independent stations provide little local news, information, or public affairs. A multiple station owner could afford to do substantial local programming, such as a local television talk block on a daily basis, a multiplicity of newscasts at various times throughout the day using the resources of a single news department, free local sports on an expanded basis, and higher quality entertainment programming demanded by local viewers.

The answers to the two critical questions concerning the need for deregulation and its effect on critical public interest goals are clear. Allowing a local broadcaster to own a second station in the market will provide it with the operating efficiencies and increased distribution it needs to compete with cable and other multi-channel providers. Such consolidation would have minimal effect on the enormous diversity of choice in programming available to the public, and, in any event, would strengthen broadcasters' contribution to that diversity rather than detract from it.

II. THE RADIO-TELEVISION CROSS-OWNERSHIP RULE SHOULD BE REPEALED.

The Commission's recent decisions deregulating national and local radio ownership rules were designed to allow broadcasters to reach a critical mass is radio station ownership, both nationally and locally, so that free over-the-air radio could continue to compete with other services for listeners and advertisers.[15] The Commission found that some consolidation of radio ownership in local markets would enhance competition without unduly threatening diversity.[16] This finding was based on facts which showed a plethora of radio voices in the local market, including an average of at least

[15] Report and Order in Docket No. 91-140, Revision of Radio Rules and Policies (April 10, 1992) and Reconsideration of Report and Order in Docket No. 91-140 (August 5, 1992).
[16] Report and Order in Docket No. 91-140 at paragraph 35.

50 commercial radio stations in the top 25 markets. The Commission concluded that the large number of radio stations, coupled with numerous other media outlets now available to local listeners, had "virtually transformed" the local market place and made it far more competitive and diverse.[17] These findings are directly relevant to the issue raised by the Commission in this proceeding as to whether the radio-television cross ownership rule should be eliminated. Group W believes that the changes in the mass media marketplace noted above and previously in these comments strongly support elimination of this Rule.

1. The Explosion of Diverse Programming Voices in Today's Mass Media Marketplace Makes the Radio-Television Cross Ownership Rule Unnecessary.

Earlier this year, Chairman Sikes distinctly summarized the findings of the Commission regarding radio's place in today's media marketplace. He stated:

> "Today, radio is a very small "fish" in in a very large electronic media "pond." More than half the stations reported losses in 1991. Unless changes are made, radio's ability to compete effectively with newspaper and cable television will erode, meaning advertisers will have fewer competitive alternatives and, as importantly, the quantity and quality of radio news, information, and public affairs programs will be affected."[18]

Group W's experience as a major market radio operator[19] supports Chairman Sikes' conclusions. The current radio and television marketplace offers

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[17] Report and Order in Docket No. 91-140 at paragraph 35.

[18] Statement of Alfred C. Sikes before the subcommittee on Communications, Committee on Commerce, Science, and Transportation, State Senate, March 11, 1992.

[19] Radio stations include WINS(am), New York, NY; WNEW-FM, New York, NY; KFWB(AM), Los Angeles, CA' KTWV(FM), Los Angeles, CA; WMAQ(AM), Chicago, IL; KYW(AM), Philadelphia, PA; WMMR(FM), Philadelphia, PA; WBZ(AM), Boston, MA; WLLZ(FM), Detroit, MI; KILT-AM/FM, Houston, TX; KDKA(AM), Pittsburgh, PA; KFBK(AM) and KGBY(FM), Sacramento, CA; KQXT(FM), San Antonio, TX; WCPT-AM, Alexandria, VA; and WCXR(FM), Woodbridge, VA.

incredible diversity to listeners and viewers and provides the American public with abundant choices in obtaining information and entertainment. In this diverse choice environment, it is simply not necessary to consider more restrictive alternatives than total elimination of the one-to-a-market rule.

The competitive solution for radio, as envisioned in the FCC's Reconsideration of its radio ownership Report and Order, allows broadcasters a modest opportunity to increase local market ownership from one AM and one FM to two AM and two FM stations. While modest in scope, Group W strongly supports the FCC's initiative and believes it will have dramatic impact on the ability of local radio stations to compete for listeners and advertising dollars.

2. Radio-Television Joint Owners Are Needed To Realize the Vision of the Commission's Radio Ownership Deregulation.

Many of the local radio operators who are poised to lead the industry in this competitive revitalization are long time broadcasters who also happen to own a television station in their radio markets. Prohibiting these television owners from improving the ability of their co-owned radio stations to compete in the local marketplace would undercut the purpose of the relaxed ownership standards decided in the Reconsideration decision. It would eliminate some of the strongest and most committed broadcasters from enhancing their service to the public in radio. Broadcasters such as Group W have demonstrated the public interest commitment and financial resources to realize the Commission's public interest objectives in these proceedings. It would be a disservice to the American public to eliminate these broadcasters from participation in additional radio ownership.

The Commission goals of diversity, localism, nationwide availability of service, and broadcasting in the public interest, which were noted above, are better served in today's marketplace through some consolidation of radio and television station ownership. In recent years, the Commission has noted the many benefits of group ownership and these consolidation efficiencies have been highlighted previously in these comments. The Commission has further recognized that these economies of scale result in greater financial resources and give broadcasters an increased ability to be responsive to the needs and tastes of their communities by providing high quality, diverse programming.[20] These benefits apply not only to combined radio operations but have been found by the Commission to apply to joint radio-television ownership.[21] The Commission concluded that "the cost savings and aggregated resources of combined radio-television operations may also contribute to programming benefits to the extent that there may be more news, public affairs and other non-entertainment programming."[22]

For example, Group W has recently combined its radio and television operations in Boston (WBZ-AM and WBZ-TV) under one general manager. The stations now share news and programming resources. Joint operation has resulted in a substantial increase in the amount of radio news and public issue programming. The combined resouces of the WBZ radio-television news departments have allowed the radio station to more than double the number of news minutes available on the radio station each day. Sharing of programming resources has resulted in an increase of issue-oriented talk programs, which have replaced music and lighter talk. This is just one

[20] Report and Order in Docket No. 83-1009, 100 FCC 2nd 1745 (1984) and Docket No. 91-140 at paragraphs 37-39.
[21] Second Report and Order in Docket No. 87-7, February 23, 1989, at paragraphs 39-51.
[22] Id at paragraph 54.

example of how radio-television cross ownership can foster the growth of local public interest programming.

Denying these multiple ownership benefits to additional radio stations in major markets would, in Group W's view, frustrate the intent of the Commissions's radio ownership rule relaxation. It would prohibit those broadcasters with the most to give in the way of public service programming from bringing it to additional radio stations. It would prohibit those broadcasters with the greatest financial strength from leading the radio industry in its new competition with other media.

Also, as Group W pointed out in its Comments in Docket No. 91-140, group ownership of multiple stations in a market is likely to result in more diverse programming in the marketplace. An owner with other successful stations is more likely to take chances in programming a second station in such a manner as to appeal to distinct niche audience segments. The end result will be new public service to specific audience groups, rather than redundant programming all seeking the same mass audience.[23]

3. The Commission's Reduced Local Radio Ownership Caps, and the Modest Caps Proposed For Television, Are Sufficient to Ensure a Competitive and Diverse Role For Radio and Television, in the Overall Media Market.

In the Notice, the Commission has suggested that "because of the growth of cable services and the increase in the number of both radio and television stations, our local ownership rules alone may be sufficient to ensure competitive and diverse radio and television markets."[24] Since making that statement, the Commission has issued its Reconsideration decision which reduces the proposed local ownership caps from those

[23]Group W comments at Docket No. 91-140 at page 11.
[24] Notice at paragraph 27.

proposed in the initial Notice. The new decision reduces the total number of radio stations which may be owned in the market from six to four. This conservative ownership cap fully protects against undue concentration. It is further support for the Commission's suggestion that its local ownership rules are sufficient to govern the consolidation of radio and television ownership without the additional limitation burden of a one-to-a-market rule.

Limiting joint ownership to one AM, one FM, and one television station in a market, or to AM/TV combinations only, would unnecessarily limit participation in the new radio marketplace by established, public interest-committed broadcasters. Similarly, the combination of today's diverse multi-channel media environment and the specific ownership caps already adopted for radio, and proposed for television, eliminates the need for a 30 "independent voices" waiver standard.

The ownership rules are being relaxed so that radio can compete with cable and other media. It would make no sense not to count these cable channels and other media in evaluating the number of diverse voices in a market. Radio does not compete just with radio. Radio listeners hear diverse views from a growing list of other media as well. This is the guarantee of diversity which the free market system of broadcasting has fostered in this country. The Commission should release radio and television broadcasters from unnecessary cross ownership restrictions so that they can compete in this diverse marketplace.

CONCLUSION

Competition in the video marketplace has dramatically reduced the financial performance of over-the-air television stations, thus weakening their ability to serve their audiences and fulfill their public interest mandate. In order to respond to the challenge of multi-channel competitors, broadcasters need regulatory flexibility to create new opportunities in the delivery of free television programming in their local service areas. Allowing local broadcasters to become multi-channel operators themselves holds great promise for renewing the ability of broadcasting to compete in today's exploding media environment.

Our free over-the-air television service is the best in the world because the Commission has allowed it to operate as a profitable private business with minimum regulation. These profits have generated the highest quality programming for the American viewing public. If free television is to continue to be great, indeed if it is to survive, broadcasters must be free to compete with pay services as multi-channel providers. Otherwise, broadcasting will become a second-class business, providing second-class service, and the losers will be those millions of Americans who rely on broadcasting stations for their television viewing.

Therefore, Group W respectfully requests that the Commission adopt a Report and Order incorporating the recommendations contained herein.

Respectfully submitted,

WESTINGHOUSE BROADCASTING COMPANY, INC.

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